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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of

The Use of N11 Codes and Other
Abbreviated Dialing Arrangements

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CC Docket No. 92-105

COMMENTS OF THE AMERICAN
PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council ("APCC") hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above captioned matter, released May 6, 1992.

I. INTRODUCTION

APCC is a council of the North American Telecommunications Association, and is made up of more than 175 independent (non-telephone company) providers of pay telephone and public communications facilities. APCC seeks to promote competitive markets and high standards of service for pay telephones and public communications.

The Commission seeks comments on proposed "rules that would require local exchange carriers to provide abbreviated dialing arrangements." NPRM, ¶1. APCC believes the Commission's proposed rules raise a number of issues and questions which must be addressed before N11 codes or other shortened dialing patterns are made available for new service. Provision of new services through N11 or other abbreviated dialing can be an important revenue opportunity for enhanced service providers. Independent public payphone ("IPP") providers also view abbreviated dialing

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arrangements as a business opportunity. Central to the Commission's consideration of the proposed rules is how they relate to IPP providers. If IPP providers will be required to follow the same rules as those proposed for local exchange carriers ("LECs"), the disparate impact of the rules on IPP providers must be considered because IPP providers are regulated differently than LECs in the provision of payphone services.

II. ABBREVIATED DIALING MUST CONTINUE TO BE AVAILABLE FOR A VARIETY OF USES.

The use of abbreviated dialing poses unique issues for independent payphone providers. With "smart" payphones, IPPs are able to offer a variety of enhanced services and features through the payphones. These services and features may be utilized through abbreviated dialing that is translated by the payphone and routed to an enhanced service selected by the payphone provider. Thus, IPP providers or other service providers may wish to use abbreviated dialing combinations such as N11 for their own services or features.

As an analogy, we are informed that some IPPs use 611 as a number for customers to use to contact the IPP provider's repair service. The 611 number may also be used by the LEC as the number for its subscribers to reach the LEC's repair service. We understand that some states require all 611 calls, even those made at IPPs, to be routed to the LEC repair service. Callers must be routed to the LEC service even though a LEC payphone or other service problem is not involved.

APCC is concerned that problems such as the routing of 611, described above, will be repeated with respect to other N11 numbers. IPPs, which are classified as customer premises equipment ("CPE"), are generally "smart" payphones capable of providing enhanced services and features not available to IPP providers through the LECs' networks.¹ IPP providers could find it beneficial to use N11 numbers to specify payphone-provided enhanced services such as voice messaging. If the Commission imposes uniform routing requirements on both LECs and IPP providers for N11 dialing, this means of offering beneficial services to end users will be unavailable to IPPs. There is no reason to require that a particular N11 call be routed to another ESP at the IPP provider's expense. The Commission must confirm that IPPs retain the right to use three-digit or other dialing combinations for their own services, and that these uses will not be precluded if another service provider chooses to use the same dialing combination.

III. ABBREVIATED DIALING SHOULD BE PROVIDED SO THAT IPP PROVIDERS ARE NOT REQUIRED TO PASS REVENUE TO ANOTHER PROVIDER WHILE BEARING THE COST OF THE SERVICES.

- A. IPP providers should not be forced to provide a service at no charge to end users without a corresponding reduction in charges to IPP providers.

¹ In contrast, LEC payphones which are classified as network services, are generally "dumb" payphones dependent on the LEC network for additional features.

The proposed N11 dialing may resemble directory assistance ("DA") (411). Many states require DA at payphones to be free; IPP providers must complete DA calls without charging end users but are still charged by the LECs for the call. There is, therefore, no provision for recovery of the cost of carrying the free DA calls. Because IPPs are classified as CPE, IPP providers are charged for DA calls, but are not permitted to charge callers for DA. LEC payphones are not charged for DA calls. Instead, costs of the LEC payphones, as network services, can be recovered as part of the overall service category. IPPs and LEC payphones have different regulatory classifications and treatment, but both IPP providers and LECs are required to provide DA the same way. The provision of DA illustrates the unequal impact of imposing the same requirements on differently regulated entities.

The proposed abbreviated dialing should not be treated like DA. If the Commission does treat N11 dialing like DA, it must provide for a means of cost recovery for IPP providers. Alternatively, the Commission must order that a means of blocking from an IPP be made available.

- B. IPP providers should not be forced to pay for a service designed to be billed to callers.

The proposed N11 dialing may most closely resemble 900, or audiotex services. Such information services are generally billed to the originating ANI. Because IPPs are CPE, and IPP providers are considered the customer, a 900 call placed from an IPP would be billed to the IPP line. The IPP would not have information from

the caller with which it could then bill for the call made. (In contrast, LEC payphones are not CPE, and these types of calls would not be billed to the LEC payphone line.) Because of the nature of the services, 900 services are almost universally blocked from payphones.

If the Commission intends three-digit dialing to be similar to 900 services, it must address how these services can be provided from IPPs without billing IPP providers for the calls. Alternatively, the Commission must permit blocking of these services at IPPs. As noted above, imposing uniform requirements on differently classified entities requires the Commission to address the detrimental impact of regulatory requirements on IPP providers' business.

- C. IPP providers should not be required to provide special call routing without corresponding compensation.

The proposed N11 dialing may be provided free of charge to the originating location, similar to 800 services or access code dialing. IPP providers would not be directly charged, but would nonetheless incur costs in making equipment available for N11 calls. Provision of service in this manner would be like dial-around calling for which IPP providers are entitled to compensation.² Compensation permits IPP cost recovery for provision of free services. Here again, because LEC payphones and IPPs are classified differently, the Commission is forced to

² Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, 6 FCC Rcd 4736, 4745 (1991).

consider how the same rules have different results in the marketplace.

IV. THE UNDERLYING REGULATORY INEQUITIES MUST BE ADDRESSED BEFORE IMPOSING UNIFORM REQUIREMENTS ON DIFFERENT ENTITIES.

All of the above problems illustrate the unequal regulatory treatment of IPP providers versus LECs. The Commission has had a PTC Petition³ to address this inequality pending before it for almost four years. IPPs are considered deregulated CPE, and IPP providers are considered LECs' customers. LEC payphones are considered network services, and callers are considered the customers. These differences result in many inequities, a few of which are described above. The PTC Petition requests that the Commission treat LEC payphones and IPPs equally by classifying LEC payphones as CPE. Granting of this request would relieve some of the inequality and negative impact on IPPs that result today from unequal regulation.

The Commission seeks comment in this NPRM on provision of services through N11 or other abbreviated dialing. The problem with respect to payphones, however, is that the Commission seeks to graft equal treatment in provision of services to end users on an unequal regulatory regime. The Commission should grant the PTC Petition to fully address this inequality. Until the PTC Petition

³ Public Telephone Council, Petition for Declaratory Ruling That Bell Operating Company Pay Telephones Are Customer Premises Equipment for Regulatory Purposes, filed July 18, 1988.

is granted, the Commission and the industry cannot fully address other service related issues such as those raised in the NPRM.

If the Commission moves forward with the proposed rules before granting the PTC Petition, it must address issues raised here that are unique to IPPs so that the disproportionate effect on IPP providers' business due to uneven regulatory treatment is lessened.

Exceptions for the unique characteristics of IPPs must be developed. Specifically, if IPPs are required to route N11 calls, there must be a mechanism to ensure that IPPs are not charged for the call. Further, the Commission should require the LECs to offer IPP providers a comparably efficient interconnection ("CEI") element which would make available to IPPs any special routing functions which the LECs use for their own payphones. Failure to do this will exacerbate the competitive disparity.

Because details regarding how N11 services would be provided are unknown, APCC reserves the right to raise additional issues after reviewing other parties' comments.

Respectfully submitted,

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